

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5401-01
Bill No.: HB 1456
Subject: Probation and Parole; Corrections Department; Mental Health Department
Type: Original
Date: March 5, 2012

Bill Summary: This proposal creates a mental health assessment pilot program for criminal offenders.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|--------------------------------------|--------------------------------------|--------------------------------------|
| FUND AFFECTED | FY 2013 | FY 2014 | FY 2015 |
| General Revenue | (Unknown less than \$100,000) | (Unknown less than \$100,000) | (Unknown less than \$100,000) |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | (Unknown less than \$100,000) | (Unknown less than \$100,000) | (Unknown less than \$100,000) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2013 | FY 2014 | FY 2015 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2013 | FY 2014 | FY 2015 |
| Federal | Unknown | Unknown | Unknown |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | Unknown | Unknown | Unknown |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------|----------|----------|
| FUND AFFECTED | FY 2013 | FY 2014 | FY 2015 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2013 | FY 2014 | FY 2015 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services** and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Mental Health (DMH)** state this legislation creates a 120 day mental health assessment unit for certain offenders who may qualify for community psychiatric rehabilitation services. This would provide an opportunity for offenders who are severely mentally ill to be supervised and treated in the community rather than being incarcerated for long periods of time.

In FY 2011, the average Community Psychiatric Rehabilitation (CPR) cost was estimated at \$4,729 (\$1,730 General Revenue and \$2,999 Federal) based on the average number of treatment months of 7.38 multiplied by the monthly cost per client of \$640.83. It is unknown how many assessment units will be created within the Department of Corrections and how many offenders will be released from the pilot program to community supervision and mental health services.

DMH would treat the small number of initial referrals within the limits of its existing appropriation for community-based services, and balanced against the needs of other priority populations. If the assessment program eventually results in permanent closure of a DOC housing unit and the DMH General Revenue cost for CPR of \$1,730 per person can be offset with DOC General Revenue savings, there will be no cost to DMH for program growth.

Officials from the **Department of Corrections (DOC)** state this proposal authorizes the DOC Director to establish a three-year pilot program for 120-day mental health assessment process for offenders with serious mental illness. This process will be similar to the current sexual offender assessment unit authorized by §559.115.5, RSMo, and allows for stabilization of an offender through medication and an in-depth analysis based on the Sentencing Assessment Report and risk assessment procedures.

The 120-day process gives judges more flexibility in sentencing offenders with serious mental illness by allowing the court to call the offender back from incarceration upon completion of treatment and assessment. When appropriate, the court could then sentence the person to community supervision, refer the offender to a mental health or re-entry court, or impose a prison sentence.

DOC states there will be an unknown amount of savings related to a reduction in direct prison costs as a result of diversion of individuals from prison. DOC cites a direct savings of

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ASSUMPTION (continued)

approximately \$6,160 general revenue per offender, per year for the cost of food, equipment, wage and discharge and healthcare (not including personal service and fringe). The personal service and fringe savings, based on analysis of the average cost to run one housing unit with 288 beds for one year, is \$3,758 general revenue per offender. If the assessment program eventually results in permanent closure of a housing unit, then the potential cost avoidance could be \$9,918 (direct expense and equipment costs of \$6,160 + average personal service and fringe costs of \$3,758) general revenue or higher per offender, per year, for an estimated annual cost avoidance of \$2.86 million ($\$9,918 \times 288 \text{ beds} = \$2,856,384$).

If this proposal helps stabilize population size, then future construction of a new prison could be avoided. Savings are difficult to estimate due to not knowing how often a sentencing court would send an offender for assessment and then release that offender to community supervision after 120 days. The DOC is currently processing data to determine approximately how many offenders may qualify for this assessment program - Budget & Planning will forward the information at a later date. There are most certainly indirect societal cost savings associated with this proposal, but again, it is difficult to estimate such savings. However, it should be noted that DOC cost savings will be much longer term, with the potential for additional savings if the proposed program stabilizes population size in the future.

According to DOC, the Department of Mental Health states any significant costs for treatment could be offset with federal funds (Medicaid) as a result of the offender's mental health issues. In FY11, the average Community Psychiatric Rehabilitation (CPR) cost was estimated at \$4,729 (\$1,730 general revenue and \$2,999 federal) based on an average number of treatment months of 7.38 multiplied by the monthly cost per client of \$640.83.

When the DMH General Revenue CPR cost of \$1,730 is offset with the DOC General Revenue cost avoidance of \$6,160 to \$9,918, the net savings is estimated to be from \$4,430 to \$8,188 per offender, per year. When annualized, total net general revenue savings are estimated to be from \$1.3 million to \$2.4 million.

In summary, the potential cost avoidance for DOC due to passage of this proposal is an unknown amount per each year dependent on the number of affected offenders and how it is utilized by the courts. Substantial cost avoidance for DOC would only be realized if an institution or portion thereof were to close.

Oversight assumes this proposal authorizes a pilot program only within participating counties. Oversight assumes the pilot program would result in a net negative fiscal impact to the state's General Revenue Fund; however, Oversight assumes there would not be a large enough number

ASSUMPTION (continued)

of offenders in the pilot program to cost the state over \$100,000 in any of the first three years.

According to the Department of Corrections, the annual cost for incarceration is \$6,160 per inmate, while the annual cost for probation and parole is \$1,869 per offender. If an offender is released on probation after the 120 day assessment period and participates in the Community Psychiatric Rehabilitation (CPR) program, the state would realize a savings of \$4,291 (\$6,160 - \$1,869) within the DOC; however, the state may realize an corresponding cost of \$4,729 within the DMH (average cost of the CPR program in FY 2011). The net fiscal impact of the two agencies would be a loss of \$438 (\$4,291 - \$4,729). According to the DMH website, the CPR program is a Medicaid supported program; therefore, the federal government would pay approximately 60 percent of the costs for eligible clients.

Oversight assumes there are various unknowns within this proposal that make the determination of a fiscal impact difficult, including:

- How many counties will participate in the pilot program;
- How many motions would be filed by prosecutors to request that an offender participate in the pilot program;
- How many of these motions would be accepted by judges;
- After the initial 120 day mental health assessment, the sentencing court may release the offender on probation;
- Will the offender qualify for Medicaid reimbursement from the Federal Government. Roughly 35 offenders within the CPR program would have to be eligible for the 60% Medicaid reimbursement to reach \$100,000 per year ($\$100,000 / (\$4,729 \times 60\%)$) in federal reimbursement.

| <u>FISCAL IMPACT - State Government</u> | FY 2013 (10 Mo.) | FY 2014 | FY 2015 |
|--|---|---|---|
| GENERAL REVENUE | | | |
| <u>Savings</u> - Department of Corrections Offenders who previously would have been incarcerated would be released on probation after completing the 120 day mental health assessment and treatment program | Unknown | Unknown | Unknown |
| <u>Costs</u> - Department of Mental Health Offenders within the pilot program now under the Community Psychiatric Rehabilitation program | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND | (Unknown - less than <u>\$100,000</u>) | (Unknown - less than <u>\$100,000</u>) | (Unknown - less than <u>\$100,000</u>) |
| FEDERAL FUNDS | | | |
| <u>Income</u> - Department of Mental Health Potential 60% Medicaid reimbursement for eligible clients within the CPR program | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| ESTIMATED NET EFFECT TO FEDERAL FUNDS | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| <u>FISCAL IMPACT - Local Government</u> | FY 2013 (10 Mo.) | FY 2014 | FY 2015 |
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal authorizes the Director of the Department of Corrections to establish a three-year pilot program regarding a mental health assessment process. A judge in a participating county may, upon a motion filed by the prosecutor, request that a criminal offender be placed in the department for 120 days for a mental health assessment and for treatment if it appears that the offender has a mental disorder or illness such that he or she may qualify for probation including community psychiatric rehabilitation programs and the probation is appropriate and not inconsistent with public safety. The victim must be given notice and an opportunity to be heard before the judge rules on the motion. Upon the court's recommendation, the department must determine the offender's eligibility for the assessment process. At the end of the 120 days, the department must send an assessment report to the sentencing court which may, if appropriate, release the offender on probation. The offender must be supervised by a state probation and parole officer who must work with the Department of Mental Health to enroll eligible offenders into community psychiatric rehabilitation programs.

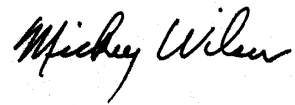
An offender is not eligible for probation if he or she has been found guilty of or pled guilty to second-degree murder, forcible or first-degree statutory rape, forcible or first-degree statutory sodomy, first degree child molestation that is classified as a class A felony, or any other offense that does not allow for probation or parole or if he or she has been found to be a predatory sexual offender.

The directors of the Department of Corrections and the Department of Mental Health must jointly submit recommendations to the Governor and the General Assembly by December 31, 2015, on whether to expand the process statewide.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Department of Mental Health
Office of Prosecution Services
Office of the State Courts Administrator

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
March 5, 2012